

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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HARVEY DEANDRE MCDANIELS,  
  
Petitioner,  
  
v.  
  
NDOC WARDEN GITTERE, *et al.*,  
  
Respondents.

Case No. 3:21-cv-00005-MMD-WGC  
  
ORDER

Before the Court is 28 U.S.C. § 2254 *pro se* habeas corpus petitioner Harvey DeAndre McDaniels' second motion for appointment of counsel ("Motion"). (ECF No. 32.) As discussed below, the Court denies the Motion.

The Court has previously explained in this case that there is no constitutional right to appointed counsel for a federal habeas corpus proceeding. *See Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987); *Bonin v. Vasquez*, 999 F.2d 425, 428 (9th Cir. 1993). The decision to appoint counsel is generally discretionary. *See Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir. 1986), *cert. denied*, 481 U.S. 1023 (1987); *Bashor v. Risley*, 730 F.2d 1228, 1234 (9th Cir. 1984), *cert. denied*, 469 U.S. 838 (1984). However, counsel must be appointed if the complexities of the case are such that denial of counsel would amount to a denial of due process, and where the petitioner is a person of such limited education as to be incapable of fairly presenting his claims. *See Chaney*, 801 F.2d at 1196; *Hawkins v. Bennett*, 423 F.2d 948, 950 (8th Cir. 1970).

In his Motion, McDaniels states that he previously had another inmate help him with his petition and now that he has been transferred, he has no help. (ECF No. 32 at 3.) While the Court is not unsympathetic to McDaniels' situation, the Court still concludes that his petition presents his claims in a clear manner, and the legal claims arising from

1 his guilty plea are not particularly complex. The Court remains unpersuaded that counsel  
2 is justified. McDaniels' Motion is thus denied.

3 It is therefore ordered that McDaniels' second motion for appointment of counsel  
4 (ECF No. 32) is denied.

5 It is further ordered that McDaniels' motion for extension of time (ECF No. 31) is  
6 denied as moot.

7 It is further ordered that McDaniels must file a reply in support of his petition, if any,  
8 within 30 days of the date of this order.

9 DATED THIS 4<sup>th</sup> Day of January 2022.

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12 MIRANDA M. DU  
13 CHIEF UNITED STATES DISTRICT JUDGE  
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